

SENATE AMENDMENTS TO SENATE BILL 707

By COMMITTEE ON HUMAN SERVICES, MENTAL HEALTH AND RECOVERY

April 16

- 1 On page 1 of the printed bill, delete lines 5 through 30 and delete page 2 and insert:
- 2 **“SECTION 1. (1) As used in this section, ‘child’s or ward’s representatives’ means:**
- 3 **“(a) Any attorney representing the child or ward.**
- 4 **“(b) If the child or ward is under 18 years of age:**
- 5 **“(A) The child’s or ward’s parent if the parent’s parental rights have not been terminated**
- 6 **and disclosure of the records to the parent is not otherwise prohibited by a court order; or**
- 7 **“(B) The child’s or ward’s adoptive parents.**
- 8 **“(c) The court appointed special advocate assigned to the child or ward.**
- 9 **“(d) The child’s or ward’s legal guardian.**
- 10 **“(e) Any guardian ad litem appointed for the child or ward.**
- 11 **“(f) Any other person upon the written request of the child or ward if the child or ward**
- 12 **is at least 18 years of age.**
- 13 **“(2)(a) Not later than October 1, 2021, the Department of Human Services shall provide**
- 14 **notice to each child and ward whom the department placed in an out-of-state residential fa-**
- 15 **cility for any duration of time between January 1, 2016, and June 30, 2020.**
- 16 **“(b) The notice provided under this subsection must include:**
- 17 **“(A) Notice of the right of the child or ward to seek civil remedy for negligent treatment**
- 18 **the child or ward received while placed in the out-of-state residential facility;**
- 19 **“(B) The name and contact information of each out-of-state residential facility in which**
- 20 **the child or ward was placed and the dates of placement;**
- 21 **“(C) The name of any parent companies associated with the facilities identified in sub-**
- 22 **paragraph (B) of this paragraph;**
- 23 **“(D) A statement that the department is in the process of proactively securing the re-**
- 24 **ords described in this section;**
- 25 **“(E) A statement that the department will retain the records it secures under this sec-**
- 26 **tion for 20 years;**
- 27 **“(F) Instructions for making a written request for release of the records from the de-**
- 28 **partment;**
- 29 **“(G) A statement that, upon request, the department will immediately release the re-**
- 30 **ords to the child or the child’s or ward’s representatives; and**
- 31 **“(H) The name, electronic mail address and telephone number of a person at the de-**
- 32 **partment whom the child or ward or the child’s or ward’s representatives may contact with**
- 33 **any questions regarding the notice.**
- 34 **“(3) The department shall provide a copy of the notice required under subsection (2) of**
- 35 **this section to the child’s or ward’s representatives. If the department provides notice to a**

1 person the department reasonably believes is the child's or ward's court appointed special
2 advocate or attorney, the department shall include a request that, if the person is no longer
3 serving as the child's or ward's court appointed special advocate or attorney, the person
4 provide the department with any contact information the person may have for the child's
5 or ward's current court appointed special advocate or attorney.

6 “(4) Upon written request, the department shall provide the child and the child's or
7 ward's representatives with all of the information in the department's possession or control,
8 including incident reports, injuries and abuse allegations, regarding the child or ward and
9 arising from incidents that occurred during the period of time that the child or ward was
10 placed in the out-of-state residential facility.

11 “(5)(a) Upon the effective date of this 2021 Act, the department shall immediately request
12 from each out-of-state residential facility in which the department placed a child or ward for
13 any duration of time between January 1, 2016, and June 30, 2020, all records created by or in
14 the possession of the facility relating to the child or ward, including:

15 “(A) Records relating to the care and treatment of the child or ward, including written,
16 video, audio or visual records, medical records, assessments, education records, reports, in-
17 cluding incident and injury reports, and internal or external investigations related to the
18 child and any other records to which the state is entitled under the terms of the
19 department's contract with the facility;

20 “(B) All documents and information regarding any injury sustained by the child or ward
21 while placed in the facility; and

22 “(C) All records relating to the use of any emergency intervention, including restraint,
23 that was used on the child or ward while placed in the facility, including written, video, audio
24 and visual records, any abuse allegation or investigation records, injury records, incident
25 reports or seclusion reports;

26 “(b)(A) The department shall make vigorous efforts to obtain the records described in
27 paragraph (a)(C) of this subsection.

28 “(B) If necessary, the department shall use all relief available under the terms of the
29 department's contract with the facilities or other applicable law to compel the release of the
30 records described in paragraph (a) of this subsection.

31 “(6) The department shall retain the records obtained under this section for 20 years
32 from the date the department provides the notice to the child or ward under subsection (2)
33 of this section.

34 “(7) Not later than January 1, 2022, the department shall report to the interim commit-
35 tees of the Legislative Assembly related to human services on the department's progress in
36 obtaining the records described in subsection (5) of this section. The report must include
37 the number of children who have requested release of their records, information about any
38 facility's refusal to release the requested information and records and information about
39 what methods the department has utilized to request and compel the release of the infor-
40 mation and records.

41 “SECTION 2. Section 1 of this 2021 Act is repealed on January 2, 2043.

42 “SECTION 3. This 2021 Act being necessary for the immediate preservation of the public
43 peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect
44 on its passage.”